ORIGINAL

FILED
07 OCT 29 AM 9:15
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

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Attorney for Plaintiff
Ping Huang

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT

Ping Huang, Plaintiff, v. **Michael Chertoff**, Secretary of the Department of Homeland Security; **Emilio T. Gonzalez**, Director of United States Citizenship and Immigration Services; **Robert S. Mueller III**, Director of the Federal Bureau of Investigation, Defendants.	Case No. '07 CV 2042 BTM (WMC) **PLAINTIFF'S ORIGINAL COMPLAINT FOR WRIT IN THE NATURE OF MANDAMUS & DECLARATORY JUDGMENT UNDER 28 U.S.C. § 1361** **Immigration Case**

Plaintiff, Ping Huang, by and through his attorney of record, opens this lawsuit against the Defendants and will show this Court the following:

1. Plaintiff, Ping Huang, brings this action against the Defendants to compel action on the delayed processing of his I-485, *Application to Register Permanent Residence or Adjust Status*. This application remains within the jurisdiction of the Defendants who have improperly delayed and withheld action on this application to Plaintiff's detriment.

PARTIES

2. Plaintiff, Ping Huang, a resident of Carlsbad, CA, is the primary applicant of an I-485, *Application to Register Permanent Residence or Adjust Status* ("I-485"), filed with the United States Citizenship and Immigration Services ("USCIS").

3. Defendant, Michael Chertoff, is the Secretary of the Department of Homeland Security ("DHS"), and this action is brought against him in his official capacity. Defendant Chertoff is generally charged with enforcement of the Immigration and Nationality Act, which provides for the processing of adjustment of status applications.

4. Defendant, Emilio T. Gonzalez, is the Director of USCIS, and this action is brought against him in his official capacity. USCIS is an agency within the DHS to which DHS' authority has, in part, been delegated. Defendant Gonzalez is generally charged with the overall administration of immigration benefits and services.

5. Defendant, Robert S. Mueller, III, is Director of the Federal Bureau of Investigation ("FBI"), and this action is brought against him in his official capacity. Defendant Mueller has yet to complete the background check ("Name Check") on Plaintiff's I-485 case.

JURISDICTION

6. Jurisdiction in this case is proper under 28 U.S.C. §§ 1331 and 1361, 5 U.S.C. §§ 551, *et seq.* and 701, *et seq.*, and 28 U.S.C. § 2201 *et seq.* Relief is requested pursuant to said statutes. Additionally, attorney fees and costs will be sought pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and 5 U.S.C. § 504 *et seq.*

VENUE

7. Venue is proper in this honorable Court, pursuant to 28 U.S.C. §1391(e), in that Plaintiff may request a hearing on the matter in the district where Plaintiff resides.

EXHAUSTION OF REMEDIES

8. Plaintiff has exhausted his administrative remedies. Plaintiff has supplied the DHS and USCIS with documents that clearly establish his eligibility to register as a permanent resident, and as will be demonstrated by the evidence, has followed up with numerous inquiries and requests to the pertinent administrative agencies attempting to expedite his delayed application.

CAUSE OF ACTION

9. Plaintiff properly filed an I-485, *Application to Register Permanent Residence or Adjust Status*, with the USCIS California Service Center ("CSC") on September 23, 2005 (**EXHIBIT 1**).

10. On October 13, 2005 Plaintiff appeared at the USCIS San Marcos Application Support Center to submit his fingerprints (**EXHIBIT 2**).

11. On July 13, 2006 Plaintiff made an inquiry to the USCIS CSC as to the status of his application. In a response dated July 16, 2006 Plaintiff was informed that his case was not ready for decision due to a pending background check (**EXHIBIT 3**).

12. On March 5, 2007 Plaintiff was informed that his application was transferred to the Nebraska Service Center in order to "speed up processing" (**EXHIBIT 4**).

13. On July 6, 2007 Plaintiff appeared once again at the USCIS San Marcos Application Support Center to submit his fingerprints (**EXHIBIT 5**).

14. On July 26, 2007 Plaintiff inquired with the USCIS as to the status of his application. On September 5, 2007 Plaintiff received a response indicating that the required background check was still open. **(EXHIBIT 6).**

15. It has been two years since Plaintiff first filed his I-485 with USCIS on September 23, 2005.

16. Although the role of Defendants is pivotal to the security of the United States of America, the Defendants' actions have gone well beyond the expected 10 months processing time for the adjudication of an I-485 Application (See Nebraska Service Center processing dates for I-485 cases posted October 15, 2007. (**EXHIBIT** 7)

17. Defendants have failed to adhere to their own processing times and procedures and have delayed the processing of Plaintiff's I-485 case.

18. Plaintiff has submitted sufficient information for the USCIS to complete adjudication of Plaintiff's I-485 application.

19. The Defendants have contracted out the name check for Plaintiff's case to the Federal Bureau of Investigation.

20. But for the pending name check, Plaintiff would receive approval for his I-485 application.

21. Plaintiff has been greatly damaged by the failure of Defendants to act in accordance with their duties under the law. Specifically:

(a) Plaintiff has been unable to obtain legal permanent residence and thus cannot travel or work without restriction. He must spend additional time and pay additional filing fees each year in order to work and travel legally.

(b) Plaintiff is unable to accrue time to be eligible for naturalization as a citizen of the United States, thus delaying his obtainment of the rights and privileges enjoyed by citizens of the United States.

(c) Plaintiff must wait to make major life decisions until his legal permanent residence petition is resolved, thus causing him undue stress and anxiety.

22. Defendants, in violation of 28 U.S.C § 1361, have failed to complete the processing of Plaintiff's I-485, a duty delegated to them by law.

23. Defendants, in violation of the Administrative Procedures Act at 5 U.S.C. § 706(1), are unlawfully withholding action on Plaintiff's application, and have unreasonably delayed action on Plaintiff's case.

24. Defendants, in violation of the Administrative Procedures Act at 5 U.S.C. § 555(b), are unlawfully delaying action on Plaintiff's application and have failed to complete the adjudicative functions delegated to them by law within a reasonable time.

PRAYER

25. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff respectfully prays that the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order:

(a) requiring USCIS to complete adjudication of Plaintiff's I-485 Application within 60 days of receiving the Court's Order;

(b) awarding reasonable attorney's fees pursuant to the Equal Access to Justice Act; and

(c) granting such other relief at law and in equity as justice may require.

Dated: October 19, 2007

Respectfully Submitted,

Justin Fok, CA Bar: 242272
Attorney for Plaintiff

EXHIBIT LIST

Exhibit 1: Receipt of I-485 filing dated September 23, 2005.

Exhibit 2: ACS Appointment Notice, with Biometrics Processing Stamp, dated October 13, 2005

Exhibit 3: Correspondence between USCIS and Plaintiff dated July 16, 2006

Exhibit 4: I-485 Transfer Notice, dated March 5, 2007

Exhibit 5: ACS Appointment Notice, with Biometrics Processing Stamp, dated July 6, 2007.

Exhibit 6: Correspondence between USCIS and Plaitniff dated September 5, 2007

Exhibit 7: USCIS Nebraska Service Center Processing Dates, posted October 15, 2007.

Exhibit 1

Exhibit 1
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THE UNITED STATES OF AMERICA

RECEIPT NUMBER WAC-05-257-53087	CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS
RECEIVED DATE September 23, 2005 / PRIORITY DATE	APPLICANT A97 183 997 HUANG, PING
NOTICE DATE September 28, 2005 / PAGE 1 of 1	

PING HUANG
[redacted]
CARLSBAD CA 92009

Notice Type: Receipt Notice

Amount received: $ 385.00
Section: Adjustment as direct beneficiary of immigrant petition

Receipt notice - If any of the above information is incorrect, call customer service immediately.

Processing time - Processing times vary by kind of case.
- You can check our current processing time for this kind of case on our website at **uscis.gov**.
- On our website you can also sign up to get free e-mail updates as we complete key processing steps on this case.
- Most of the time your case is pending the processing status will not change because we will be working on others filed earlier.
- We will notify you by mail when we make a decision on this case, or if we need something from you. If you move while this case is pending, call customer service when you move.
- Processing times can change. If you don't get a decision or update from us within our current processing time, check our website or call for an update.

If you have questions, check our website or call customer service. Please save this notice, and have it with you if you contact us about this case.

Notice to all customers with a pending I-130 petition - USCIS is now processing Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 relative petition is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. This process will allow USCIS to concentrate resources first on cases where visas are actually available. This process should not delay the ability of one's relative to apply for an immigrant visa or adjustment of status. Refer to **www.state.gov/travel** **<http://www.state.gov/travel>** to determine current visa availability dates. For more information, please visit our website at www.uscis.gov or contact us at 1-800-375-5283.

If this receipt is for an I-90, I-485, or I-698 application
Biometrics - (fingerprint, photo, signature)
The next step is to have your biometrics taken at a USCIS Application Support Center (ASC). Call customer service at 1.800.375.5283 to schedule your appointment. For hearing impaired, TDD assistance call 1.800.767.1833. It is important that you schedule your appointment. We cannot complete certain steps in processing until you appear for this appointment.
What to bring to your appointment - You must bring this letter and a photo identification to your appointment. Acceptable kinds of photo identification are:
A passport or national photo identification issued by your country,
A drivers license,
A military photo identification, or
A state - issued photo identification card.

Always remember to call customer service if you move while your case is pending. If you have a pending I-130 relative petition, also call customer service if you should decide to withdraw your petition or if you become a U.S. citizen.

Please see the additional information on the back. You will be notified separately about any other cases you filed.
U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAGUNA NIGUEL CA 92607-0111
Customer Service Telephone: (800) 375-5283

Exhibit 1
page 8

Form I-797C (Rev. 01/31/05) N

Exhibit 2

Exhibit 2
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THE UNITED STATES OF AMERICA

ASC Appointment Notice			NOTICE DATE 09/30/2005
CASE TYPE I485 Application to Register Permanent Resident or Adjust Status		SOCIAL SECURITY NUMBER	USCIS A# A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
APPLICATION NUMBER WAC0525753087	CODE 3	SERVICE CENTER WSC	PAGE 1 of 1

PING HUANG
[redacted]
CARLSBAD, CA 92009

BIOMETRICS PROCESSING STAMP
ASC SITE CODE: XSC
BIOMETRICS QA REVIEW BY: 1578 ON OCT 13 2005
TENPRINTS QA REVIEW BY: 1578 ON OCT 13 2005

To process your application, the U. S. Citizenship & Immigration Services (USCIS) must capture your biometrics.
PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.
If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below.
RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW AND FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.

APPLICATION SUPPORT CENTER	DATE AND TIME OF APPOINTMENT
USCIS SAN MARCOS 727 W. SAN MARCOS BLVD. SUITE 101, 102 (106 temp) SAN MARCOS, CA 92069	10/13/2005 8:00 AM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR BIOMETRICS TAKEN, YOU MUST BRING:
1. THIS APPOINTMENT NOTICE and
2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, your biometrics may not be taken.

REQUEST FOR RESCHEDULING

Please reschedule my appoinment for the next available: ☐ Wednesday afternoon ☐ Saturday afternoon

U. S. Citizenship & Immigration Services (USCIS) cannot guarantee the day preferred, but will do so to the extent possible.
Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:

USCIS SAN MARCOS
727 W. SAN MARCOS BLVD.
SUITE 101, 102 (106 temp)
SAN MARCOS, CA 92069

APPLICATION NUMBER I
I485 WAC0525753087

If you have any questions regarding this notice, please call 1-800-375-5283.

WARNING!

Due to limited seating availability in our lobby area, only persons who are necessary to assist with transportation or completing the biometrics worksheet should accompany you.
If you have open wounds or bandages/casts when you appear, the USCIS may reschedule your appointment if it is determined your injuries will interfere with taking your biometrics.

Exhibit 2

Form I-797C (Rev. 01/31/05) N

Exhibit 3

U.S. Department of Homeland Security
California Service Center
P.O. Box 30111
Laguna Niguel, CA 92607-0111

U.S. Citizenship and Immigration Services

Sunday, July 16, 2006

PING HUANG
[redacted]
CARLSBAD CA 92011

Dear PING HUANG:

On 07/13/2006 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	I485
Filing date:	09/28/2005
Receipt #:	WAC-05-257-53087
Beneficiary (If you filed for someone else):	HUANG, PING
Your USCIS Account Number (A-number):	A097183997
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

Exhibit 3

Exhibit 4

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797, Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER WAC-05-257-53087		CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS	
RECEIPT DATE September 27, 2005	PRIORITY DATE	APPLICANT A097 183 997 HUANG, PING	
NOTICE DATE March 5, 2007	PAGE 1 of 1		

PING HUANG
[redacted]
CARLSBAD CA 92009

Notice Type: Transfer Notice

This is to advise you that in order to speed up processing we have transferred the above case to the following USCIS office for processing:

Nebraska Service Center, P.O. BOX 82521, Lincoln, NE 68501-2521

That office will notify you of the decision made on the application or petition.

Please read the following information before attempting to contact the National Customer Service Center for an update:

Please refer to the USCIS processing dates webpage, via the USCIS home webpage **http://www.uscis.gov/graphics/index.htm**, to locate the processing dates for the specific service center that your case was transferred to. If the service center is within processing time for your particular application or petition, USCIS cannot provide an update on your case. If the service center is outside of processing time for your particular application or petition, please call Customer Service at 1-800-375-5283 to request an update.

Please read the following information if you submitted a Premium Processing application or petition:

Please contact the Premium Processing phone number at 1-866-315-5718 for inquiries. The 15-day Premium Processing clock does not start until the correct office receives the application or petition.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 30111
LAGUNA NIGUEL CA 92607-0111
Customer Service Telephone: (800) 375-5283

Exhibit 4

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Exhibit 5

Exhibit 5
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THE UNITED STATES OF AMERICA

ASC Appointment Notice	APPLICATION NUMBER WAC0525753087		NOTICE DATE 6/8/2007
CASE TYPE I485 Application to Register Permanent Resident or Adjust Status	SOCIAL SECURITY NUMBER	USCIS A# A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	CODE 1
BIOMETRICS PROCESSING STAMP	TCR	SERVICE CENTER NSC	PAGE 1 of 1

PING HUANG
[redacted]
CARLSBAD, CA 92009

ASC SITE CODE: SSC
BIOMETRICS QA REVIEW BY: ________
________ ON ________
TENPRINTS QA REVIEW BY:
399346 ON JUL 06 2007

Your fingerprint card on file with the U. S. Citizenship & Immigration Services (USCIS) has expired. In order for USCIS to continue processing your application, it will be necessary to have your fingerprints re-taken. This will be completed at no additional expense to you.

PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.

IF YOU FAIL TO APPEAR AS SCHEDULED, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.

APPLICATION SUPPORT CENTER
USCIS SAN MARCOS
727 W. SAN MARCOS BLVD.
SUITE 101, 102 (106 temp)
SAN MARCOS, CA 92069

PLEASE READ THIS ENTIRE NOTICE CAREFULLY.

DATE AND TIME OF APPOINTMENT
07/06/2007
11:00 AM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR BIOMETRICS TAKEN, YOU MUST BRING:

1. **THIS APPOINTMENT NOTICE** and
2. **PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, your biometrics may not be taken.

CELL PHONES, CAMERAS, OR OTHER RECORDING DEVICES ARE NOT PERMITTED.

REQUEST FOR RESCHEDULING

☐ Please reschedule my appointment. Upon receipt of your request, you will be provided a new appointment notice. Make a copy of this notice for your records, then mail the original with your request to USCIS SAN MARCOS, 727 W. SAN MARCOS BLVD., SUITE 101, 102 (106 temp), SAN MARCOS, CA 92069

APPLICATION NUMBER I
I485 - WAC0525753087

If you have any questions regarding this notice, please call 1-800-375-5283.

WARNING!

Due to limited seating availability in our lobby area, only persons who are necessary to assist with transportation or completing the biometrics worksheet should accompany you.

If you have open wounds or bandages/casts when you appear, the USCIS may reschedule your appointment if it is determined your injuries will interfere with taking your biometrics.

Exhibit 5
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Form I-797C (Rev. 01/31/05) N

Exhibit 6

Exhibit 6
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Windows Live™

Your recent inquiry (receipt #WAC-05-257-53087)

From: **CRIS** (USCIS-CRIS@dhs.gov)
Sent: Wed 9/05/07 4:07 PM
To: [redacted]@hotmail.com

U.S. Department of Homeland Security
Nebraska Service Center
P.O. Box 82521
Lincoln, NE 68501-2521

U.S. Citizenship and Immigration Services
Wednesday, September 5, 2007

Emailed to [redacted]@hotmail.com

Dear M. HUANG:

On 07/26/2007 you, or the designated representative shown below, contacted us about your case. Some of t key information given to us at that time was the following:

Caller indicated they are:
-- Applicant or Petitioner

Attorney Name:
-- Information not available

Case type:
-- I485

Filing date:
-- 09/28/2005

Receipt #:
-- WAC-05-257-53087

Beneficiary (if you filed for someone else):
-- HUANG, PING

Your USCIS Account Number (A-number):
-- 097183997

Type of service requested:
-- Outside Normal Processing Times

The status of this service request is:

Service records indicate that the processing of your I-485 application has been delayed. A check of our recor establishes that your case is not yet ready for a decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking.

lo not receive a decision or other notice of action from us within six months from the date of this letter, please :ontact us by calling our customer service number provided below to complete another service request. There is ıothing that can be done to speed this process up. Once it has been released from that area, it should be ready or review by an officer. Please make sure your name is on the mailbox for delivery.

;ince your case is an employment based I-485, your family members will not be reviewed until a decision has ɔeen made on your case.

f you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

ʾlease remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify :he Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant ;tatus are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the ıddress shown on that form. If you do not have this form, you can download it from our website or you can call :he National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please :all us with your new address information as soon as your move is complete. If you have already called us and jiven us this information, you do not need to call again.

J.S. Citizenship and Immigration Services

Exhibit 7

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U.S. Citizenship and Immigration Services
Nebraska Service Center Processing Dates
Posted October 15, 2007

Notice: U.S. Citizenship and Immigration Services (USCIS) has improved the reporting procedure for processing times of immigration benefit applications. In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service level goals we will report the USCIS service level commitment. For example, when our service level goal is to process a particular kind of case within six months, and if our processing time is six months or less, we will show "6 months".

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

There are several important exceptions to the processing times shown below:

- Case processing will be delayed if we must ask you for more evidence or information.
  If we ask for missing required initial evidence, count the processing time from when we receive that missing evidence.
- The case processing timeframe will start over if a customer doesn't appear for an interview or asks that it be rescheduled.

What if I have a problem or have questions about a case?

We offer a variety of services after you file. For example, for most kinds of cases you can check the status of your case online.

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our fact sheet –

Case Services - How do I… know what kind of services are available to me after I file my application or petition?

One additional point about these projections. They are the time to complete processing and mail the actual notice and/or document. If you check case status online and see that your case has been approved, and you haven't yet received your approval notice or document in the mail, we ask that you wait thirty days from the approval date before contacting us. That is because it may take that long before it is returned to us as undeliverable. You can also print the case status online answer for your records.

Service Center Processing Dates for **Nebraska Service Center** Posted October 15, 2007

Form	Title	Classification or Basis for Filing	Processing Timeframe
I-90	Application to Replace Permanent Resident Card	Initial issuance or replacement	November 06, 2006
I-90	Application to Replace Permanent Resident Card	10-year renewal	December 27, 2005
I-90A	Application to Replace Permanent Resident Card	Initial issuance or replacement for Special Agricultral Workers (SAW)	6 Months
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	Initial issuance or replacement of a Form I-94	3 Months
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Visa to be issued abroad	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Change of status in the U.S.	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Extension of stay in the U.S.	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	H-2A - Temporary workers	15 Days
I-129	Petition for A Nonimmigrant Worker	H-2B - Other temporary workers	30 Days
I-129	Petition for A Nonimmigrant Worker	H-3 - Temporary trainees	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	L - Intracompany transfers	30 Days
I-129	Petition for A Nonimmigrant Worker	Blanket L	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	O - Extraordinary ability	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	P - Athletes, artists, and entertainers	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	R - Religious occupation	May 14, 2006
I-129	Petition for A Nonimmigrant Worker	TN - North American Free Trade Agreement (NAFTA) professional	May 14, 2006
I-131	Application for Travel Document	Permanent resident applying for a re-entry permit	May 07, 2007
I-131	Application for Travel Document	Refugee or aslyee applying for a refugee travel document	May 07, 2007
I-131	Application for Travel Document	Haitian Refugee Immigrant Fairness Act (HRIFA) principal applying for advance parole	July 02, 2007
I-131	Application for Travel Document	Haitian Refugee Immigrant Fairness Act (HRIFA) dependent applying for advance parole	January 14, 2007
I-131	Application for Travel Document	All other applicants for advance parole	July 02, 2007
I-140	Immigrant Petition for Alien Worker	Extraordinary ability	January 26, 2007

I-140	Immigrant Petition for Alien Worker	Outstanding professor or researcher	January 10, 2007
I-140	Immigrant Petition for Alien Worker	Multinational executive or manager	December 04, 2006
I-140	Immigrant Petition for Alien Worker	Schedule A Nurses	October 30, 2006
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability	February 06, 2007
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability requesting a National Interest Waiver	August 01, 2006
I-140	Immigrant Petition for Alien Worker	Skilled worker or professional	November 14, 2006
I-140	Immigrant Petition for Alien Worker	Unskilled worker	October 20, 2006
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal	Readmission after deportation or removal	6 Months
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	All other special immigrants	6 Months
I-485	Application to Register Permanent Residence or to Adjust Status	Employment-based adjustment applications	December 19, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Based on grant of asylum more than 1 year ago	November 13, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Based on refugee admission more than 1 year ago	November 09, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Under the Haitian Refugee Immigrant Fairness Act (HRIFA)	April 15, 2007
I-485	Application to Register Permanent Residence or to Adjust Status	Under the Indochinese Adjustment Act	6 Months
I-539	Application to Extend/Change Nonimmigrant Status	Change of status to H or L dependents	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change status to the F or M academic or vocational student categories	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change Status to the J exchange visitor category	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other change of status applications	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of stay for H and L dependents	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for F or M academic or vocational students	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for J exchange visitors	May 09, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other extension applications	May 09, 2007
I-612	Application for Waiver of the Foreign Residence Requirement	Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution	February 28, 2007

I-730	Refugee/Asylee Relative Petition	Petition for accompanying family members of a refugee or an asylee	September 01, 2006
I-751	Petition to Remove the Conditions on Residence	Removal of lawful permanent resident conditions (spouses of U.S. citizens and lawful permanent residents	January 03, 2007
I-765	Application for Employment Authorization	Based on an approved asylum application [(a)(5)]	30 Days
I-765	Application for Employment Authorization	Based on a request by a qualified F-1 academic student. [(c)(3)]	11 Weeks
I-765	Application for Employment Authorization	Based on a pending asylum application [(c)(8)]	30 Days
I-765	Application for Employment Authorization	Based on a pending I-485 adjustment application [(c)(9)]	July 02, 2007
I-765	Application for Employment Authorization	All other applications for employment authorization	July 27, 2007
I-817	Application for Family Unity Benefits	Voluntary departure under the family unity program	6 Months
I-824	Application for Action on an Approved Application or Petition	To request further action on an approved application or petition	January 18, 2007

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ORIGINAL

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED

07 OCT 29 AM 10:04

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

I (a) PLAINTIFFS

Huang, Ping

DEFENDANTS

Department of Homeland Security: Chertoff, Michael, Secretary;
United States Citizenship and Immigration Services: Gonzalez, Emilio T., Director;
Federal Bureau of Investigation: Mueller, Robert S., Director;

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego County
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Washington, DC
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Justin G. Fok
Law Offices of Jean D. Chen
2107 N. 1st Street, #400
San Jose, CA 95131
Telephone: (408) 437-1788

ATTORNEYS (IF KNOWN)

U.S. Attorney

'07 CV 2042 BTM (WMC)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- • 1 U.S. Government Plaintiff
- • 3 Federal Question (U.S. Government Not a Party)
- X 2 U.S. Government Defendant
- • 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

	PT	DEF		PT	DEF
Citizen of This State	• 1	• 1	Incorporated or Principal Place of Business in This State	• 4	• 4
Citizen of Another State	• 2	• 2	Incorporated and Principal Place of Business in Another State	• 5	• 5
Citizen or Subject of a Foreign Country	• 3	• 3	Foreign Nation	• 6	• 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. § 1361, Plaintiff's Original Complaint for Writ in the Nature of Mandamus and Declaratory Judgment

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
	PERSONAL INJURY	PERSONAL INJURY			
• 110 Insurance	• 310 Airplane	• 362 Personal Injury- Medical Malpractice	• 610 Agriculture	• 422 Appeal 28 USC 158	• 400 State Reappointment
• 120 Marine	• 315 Airplane Product Liability	• 365 Personal Injury - Product Liability	• 620 Other Food & Drug	• 423 Withdrawal 28 USC 157	• 410 Antitrust
• 130 Miller Act	• 320 Assault, Libel & Slander	• 368 Asbestos Personal Injury Product Liability	• 625 Drug Related Seizure of Property 21 USC881	**PROPERTY RIGHTS**	• 430 Banks and Banking
• 140 Negotiable Instrument	• 330 Federal Employers' Liability	**PERSONAL PROPERTY**	• 630 Liquor Laws	• 820 Copyrights	• 450 Commerce/ICC Rates/etc.
• 150 Recovery of Overpayment &Enforcement of Judgment	• 340 Marine	• 370 Other Fraud	• 640 RR & Truck	• 830 Patent	• 460 Deportation
• 151 Medicare Act	• 345 Marine Product Liability	• 371 Truth in Lending	• 650 Airline Regs	• 840 Trademark	• 470 Racketeer Influenced and Corrupt Organizations
• 152 Recovery of Defaulted Student Loans (Excl. Veterans)	• 350 Motor Vehicle	• 380 Other Personal Property Damage	• 660 Occupational Safety/Health	**SOCIAL SECURITY**	• 810 Selective Service
• 153Recovery of Overpayment of Veterans Benefits	• 355 Motor Vehicle Product Liability	• 385 Property Damage Product Liability	• 690 Other	• 861 HIA (13958)	• 850 Securities/Commodities Exchange
• 160 Stockholders Suits	• 360 Other Personal Injury		**LABOR**	• 862 Black Lung (923)	• 875 Customer Challenge 12 USC
• 190 Other Contract			• 710Fair Labor Standards Act	• 863 DIWC/DIWW (405(g))	• 891 Agricultural Acts
• 195 Contract Product Liability			• 720 Labor/Mgmt. Relations	• 864 SSID Title XVI	• 892 Economic Stabilization Act
REAL PROPERTY	**CIVIL RIGHTS**	**PRISONER PETITIONS**	• 730 Labor/Mgmt. Reporting & Disclosure Act	• 865 RSI (405(g))	• 893 Environmental Matters
• 210 Land Condemnation	• 441 Voting	• 510 Motions to Vacate Sentence Habeas Corpus	• 740 Railway Labor Act	**FEDERAL TAX SUITS**	• 894 Energy Allocation Act
• 220 Foreclosure	• 442 Employment	• 530 General	• 790 Other Labor Litigation	• 870 Taxes (U.S. Plaintiff or Defendant)	• 895 Freedom of Information Act
• 230 Rent Lease & Eiectmant	• 443 Housing/Accommodations	• 535 Death Penalty	• 791 Empl. Ret. Inc. Security Act	• 871 IRS - Third Party 26 USC 7609	• 900 Appeal of Fee Determination Under Equal Access to Justice
• 240 Tort to Land	• 444 Welfare	• 540 Mandamus & Other			• 950 Constitutionality of State
• 245 Tort Product Liability	• 440 Other Civil Rights	• 550 Civil Rights			X 890 Other Statutory Actions
• 290 All Other Real Property		• 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

X 1 Original Proceeding • 2 Removal from State Court • 3 Remanded from Appelate Court • 4 Reinstated or Reopened • 5 Transferred from another district (specify) • 6 Multidistrict Litigation • 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: • CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: **JURY DEMAND:** • YES X NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 10/19/07 SIGNATURE OF ATTORNEY OF RECORD

#143779 $350 PD 10/29/07

::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

# 143749 - KD

October 29, 2007
10:14:15

Civ Fil Non-Pris
USAO #.: 07CV2042
Judge..: BARRY T MOSKOWITZ
Amount.: $350.00 CK
Check#.: BC 1731

Total-> $350.00

FROM: CIVIL FILING
HUANG V. CHERTOFF, ET AL